

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

UNION COUNTY REGIONAL HIGH
SCHOOL TEACHERS' ASSOCIATION,

Charging Party,

-and-

Docket Nos. CO-78-78, CO-77-71,
CO-77-135 and CO-77-137

UNION COUNTY REGIONAL HIGH
SCHOOL BOARD OF EDUCATION,

Respondent.

SYNOPSIS

The Commission dismisses an appeal from the Director of Unfair Practices' refusal to issue complaints. All of the issues in the case have been resolved and the Association seeks a hearing solely on the question of interest. Without deciding whether interest may be a proper part of the remedy in some unfair practice cases, it does not deem it appropriate to convene a hearing solely for the purpose of deciding whether interest here would be appropriate after the employer has acknowledged the effect of a recent Supreme Court decision and restored the increments at issue.

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

UNION COUNTY REGIONAL HIGH
SCHOOL TEACHERS' ASSOCIATION,

Charging Party,

- and -

Docket Nos. CO-78-78, CO-77-71,
CO-77-135 and CO-77-137

UNION COUNTY REGIONAL HIGH
SCHOOL BOARD OF EDUCATION,

Respondent.

Appearances:

For the Charging Party, Goldberg & Simon, P.A. (Gerald M.
Goldberg, of Counsel, Louis P. Bucceri, on the brief)

For the Respondent, Weinberg, Manoff & Dietz (Irwin
Weinberg, of Counsel)

DECISION AND ORDER

This is an appeal--pursuant to N.J.A.C. 19:14-2.3--of a decision by the Director of Unfair Practices refusing to issue complaints on the unfair practice charges bearing the docket numbers appearing in the caption hereto. D.U.P.No. 79-23, 5 NJPER 158 (¶10088 1979). The charges all concerned the failure of the Union County Regional High School Board of Education ("Board") to pay increments to employees represented in various units by the Union County Regional High School Teachers' Association ("Association") during negotiations for a successor contract. After the decision of the New Jersey Supreme Court in Galloway Township Board of Education v. Galloway Township Education Association, 78 N.J. 25 (1978), the Board withdrew its appeal from the granting of interim relief

directing it to pay the increments, and then paid all of the increments at issue. However, the Association still requested that complaints be issued on all four cases, seeking to litigate the question of interest payment for the time periods when increments were wrongfully withheld. The Director declined to issue complaints citing the applicable Commission rule^{1/} which contemplates complaints when the allegations, if true, "may constitute unfair practices" and "formal proceedings in respect thereto should be instituted..." He concluded that given the Board's compliance with the Galloway decision and acceptance of its principles, there was minimal likelihood for reoccurrence of this conduct, and that any harm to public rights underlying the policy of the New Jersey Employer-Employee Relations Act (the "Act") was de minimis given the small dollar figure per employee of the Association's computation of the interest it claims is due.

In its brief in support of the instant appeal the Association contends that the Director exceeded his authority, that an award of interest is properly within the statutory authority conferred on the Commission, and that this case warrants the granting of interest and a cease and desist order.

After considering the arguments of the Association, we find that the Director's exercise of discretion in refusing to issue a complaint in this matter was appropriate. Without here deciding whether interest may be a proper part of the remedy in some unfair practice cases, we do not believe that the instant matters warrant

^{1/} N.J.A.C. 19:14-2.1. In the Director's decision this was cited as N.J.A.C. 19:12-2.1 due to a typographical error.

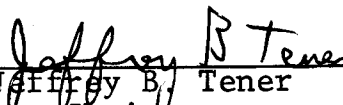
convening of a plenary hearing to determine if this case would present such a situation.

The Supreme Court in the Galloway case held, as indicated by the Association, that this Commission was correct that the mere cessation of conduct violative of this Act, and even the payment of monies necessary to remedy the unfair practice, does not automatically render moot a proceeding concerning such conduct. Rather, given the on going nature of the parties' relationships in labor relations and the public purpose behind the rights established by this Act, it may be appropriate for PERC to adjudicate unfair practices even where the offending conduct has ceased. However, the Court explicitly stated that it is a matter within this Commission's discretion, not the charging party's, to determine whether the circumstances of the particular case warrant such a course of action. 78 N.J. 25 at 39. The Court's holding on this point is consistent with the second part of the two-fold standard for the issuance of a complaint contained in N.J.A.C. 19:14-2.1, which was relied upon by the Director in his decision. In this case, no factual or legal issues remain; all that was called for was an assessment of whether this was an appropriate case for a discretionary award of interest, or whether any public policy value would be served by finding that the Board had violated the Act. The Director did not so find, and we concur with his judgment.

ORDER

For the foregoing reasons, it is hereby ORDERED that the decision of the Director of Unfair Practices is affirmed.

BY ORDER OF THE COMMISSION



Jeffrey B. Tener
Chairman

Chairman Tener and Commissioner Hartnett voted for this decision.
None opposed. Commissioners Graves, Hipp and Newbaker abstained.
Commissioner Parcells was not present.

DATED: Trenton, New Jersey
May 22, 1979
ISSUED: May 23, 1979